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JUN 15 2001

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June 15, 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

Attention: Common Carrier Bureau

RE: Joint Petition for Expedited Limited Waiver, CC Docket No. 80-286
(filed 6/15/01)

Dear Ms. Salas:

The National Exchange Carrier Association, Inc. (NECA), United States Telecom Association (USTA), National Telephone Cooperative Association (NTCA), National Rural Telecom Association (NRTA), and Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) (Joint Petitioners) filed a Joint Petition for Expedited Limited Waiver of section 36.3(b)(1) of the Commission's rules on June 15, 2001. The F.C.C. Form 159 and the required \$ 6,220.00 filing fee are being delivered via overnight service to the Mellon Bank in Pittsburgh, Pennsylvania.

Acknowledgment and date of receipt of this filing fee by Mellon Bank are requested. A duplicate copy of the letter is provided for this purpose.

All correspondence and inquiries concerning this filing should be directed to me at the above address or faxed to 973-884-8008.

Sincerely,

Rick A Skoff (REF)

Attachments - Supporting Documents

No. of Copies rec'd 0+4
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 15 2001

In the Matter of)
)
Jurisdictional Separations Reform and)
Referral to the Federal-State Joint Board)
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FEDERAL COMMUNICATIONS COMMISSION
CC Docket No. 80-286
~~OFFICE OF THE SECRETARY~~

JOINT PETITION FOR EXPEDITED LIMITED WAIVER

The National Exchange Carrier Association, Inc. (NECA), United States Telecom Association (USTA), National Telephone Cooperative Association (NTCA), National Rural Telecom Association (NRTA), and Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) (Joint Petitioners) submit this Joint Petition for Expedited Limited Waiver of section 36.3(b)(1) of the Commission's rules to extend the notification date for rate-of-return carriers to elect a freeze of category relationships from July 1, 2001, to September 1, 2001.¹

BACKGROUND

In its *Separations Freeze Order*, the Commission provided rate-of-return companies with a one-time option to freeze category relationships at calendar year 2000 levels.² The Commission recognized that, although a freeze of category relationships would not be appropriate for all rate-of-return carriers, "some rate-of-return carriers may prefer the added simplification and stability from a freeze of their category relationships."³ The Commission

¹ 47 C.F.R. § 36.3(b)(1).

² Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, *Report and Order*, CC Docket No. 80-286, FCC 01-162 (rel. May 22, 2001)(*Separations Freeze Order*) at ¶¶ 21, 22.

³ *Separations Freeze Order* at ¶ 21.

gave rate-of-return companies until July 1, 2001 to make the election to freeze category relationships.⁴

The Commission acknowledged that each rate-of-return carrier should be able to evaluate the benefits of a category relationship freeze based on their own individual circumstances and investment plans.⁵ To do so, companies will need to analyze the category relationships from their calendar year 2000 separations study data compared with any anticipated budget and network infrastructure changes. Companies will also need to assess their plans to deploy new technologies, such as digital subscriber line (DSL), and to determine the corresponding regulatory impacts that ensue from adding these investments.

Based on the May 22, 2001 release date of the *Separations Freeze Order*, this gives companies less than six weeks to make their decision and notify NECA (or the Commission, if the company is not a NECA tariff participant). Considering the magnitude of this decision – the calendar year 2000 category relationships would be frozen for the duration of the freeze – this appears to be an excessively short time frame for companies to evaluate fully their separations data and investment plans and to make informed decisions. Companies will need sufficient time to process data through cost separations and budget models to determine the likely impacts of freezing their category relationships compared with the anticipated administrative savings. Many rate-of-return companies may not have sufficient calendar year 2000 cost study data available as of yet upon which to base their decision. Due to the complexity of these studies and limited resources, most small cost companies require outside accounting and consulting

⁴ *Separations Freeze Order* at ¶ 21. See also 47 C.F.R. § 36.3(b)(1).

⁵ *Separations Freeze Order* at ¶ 21.

resources to complete the necessary studies. As a result, final annual cost studies are not completed until six to nine months after the study period.

Expanding the date to elect the category freeze option until September 1, 2001 gives most companies the ability to use their final calendar year 2000 cost study data to make an informed decision. Otherwise, companies believing they have not had an opportunity to adequately consider the category freeze from all aspects will, in many instances, choose to forgo electing this option. This would be contrary to the intent of the optional aspect of the freeze, which is to give those rate-of-return companies that might be able to benefit from the administrative savings of the freeze the ability to do so.

WAIVER REQUEST

The Joint Petitioners therefore request that the Commission waive the requirements of section 36.3(b)(1) of its rules. A waiver is needed to allow rate-of-return carriers until September 1, 2001 to elect a freeze of category relationships. The requested waiver impacts only the date for rate-of-return companies to elect a freeze of category relationships. All the other components of the freeze remain intact. Even with the extended time frame for companies to make this election, the implementation date of the freeze, for both allocation factors and category relationships, remains July 1, 2001.

The Joint Petitioners believe that the requested delay in election date from July 1, 2001 to September 1, 2001 will allow rate-of-return companies sufficient time to evaluate their calendar year 2000 cost study data in conjunction with anticipated investment plans, and to make informed decisions on whether to elect to freeze category relationships. While affording rate-of-return companies the ability to benefit from the added regulatory simplification and

stability provided by a categories freeze, the change in the election date will have no effects on any other aspects of the separations freeze delineated in the *Separations Freeze Order*.

CONCLUSION

Good cause having been shown, the Joint Petitioners respectfully request that the Commission waive section 36.3(b)(1) of its rules, to allow rate-of-return carriers until September 1, 2001 to elect a freeze of category relationships. As time is running short for companies to notify NECA (or the Commission, if applicable) of their decision, the Joint Petitioners respectfully request that the Commission act expeditiously in granting this petition.

Respectfully submitted,

June 15, 2001

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Joint Petition for Expedited Limited Waiver was served this 15th day of June 2001, by hand delivery to the persons listed below.

By: Shawn O'Brien (REF)
Shawn O'Brien

The following parties were served:

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